

**Board of Directors Meeting  
Virginia Office for Protection and Advocacy  
November 19, 2003  
Abingdon, Virginia**

<b>Board Members Present:</b>	Barbara S. Barrett, Chair Maureen S. Hollowell, Vice-Chair Michael Cooper Waja Grimm Okpil Kim Elizabeth Priaulx Dink Shackelford
<b>Board Members Absent:</b>	Martha Bryant Raymond Burmester Susan Kalanges Brent Brown
<b>VOPA Staff Present:</b>	Colleen Miller, Executive Director Sherry Confer Sonya McKenzie
<b>(By phone during parts of the meeting):</b>	Jonathan Martinis Annette Sannuti Yvette Simard
<b>PAIMI Advisory Council Present:</b>	Mark Lester, Chair
<b>DAC Absent:</b>	Daaiyah Rashid, Chair
<b>Guests Present:</b>	Hunter Widner, Highlands CSB Kathy Hill, Inspector General's Office

**CALL TO ORDER**

Ms. Barbara S. Barrett, Chair, called the meeting to order at 8:00am at the Southwest Higher Education Center in Abingdon. There was a welcome and introduction of Board members and staff. Hunter Widner, Executive Director, Highlands Community Services Board was recognized.

The Chair congratulated Michael Cooper and the Endependence Center of Northern Virginia on receipt of the James B. Hunter Human Rights Award, recognizing their commitment to human rights in Arlington County.

Corrections were made to the Board roster.

## **LEGAL RIGHTS TRAINING**

The Board provided feedback regarding the excellent job that Staff Attorney, Steven Traubert had done with his presentation at the Southwest Higher Education Center on ADA and Effective Communication, November 18, 2003. Hunter Widner, Executive Director of the Highlands Community Services Board also replied that he thought the training was very informative, and he appreciated the opportunity to work with VOPA on the issues presented.

## **PUBLIC COMMENT**

Mr. Widner extended a welcome to the Board and all in attendance to Washington County and Southwestern Virginia. He appreciates VOPA coming to this area and stated if there is anything the Community Services Board can do to help VOPA, to let him know.

No other public comment was offered at this time.

## **APPROVAL OF AGENDA**

The agenda was reviewed and approved. A MOTION to adopt the agenda was made by Dink Shackelford and seconded by Maureen Hollowell. The MOTION carried unanimously.

## **APPROVAL OF MINUTES OF AUGUST 20-21, 2003**

The minutes of the August 20 and 21, 2003 meetings were approved as submitted.

## **VOPA BOARD ROLE**

The Chair reviewed the Board's powers and duties as stated in the statute Section 51.5-39.5. The duties include, but are not limited to: appointing and annually evaluating the performance of a Director; prepare and submit a budget to the General Assembly for the operation of the Office and Board; establishing general policies for the Office and advising and assisting the Executive Director in developing annual program priorities; establishing annual program priorities for the Office; adopting regulations, policies, and procedures to carry out the provisions of the statute, consistent with the provisions of Article 2 (Sections 2.2-4006 et seq.) of the Administrative Process Act and monitoring and evaluating the operations of the Office. Ms. Barrett indicated that this is something the Executive Committee has been working on with Ms. Miller, Executive Director. Ms. Barrett cautioned, however, that board members are asked not to contact staff individually to find out what is going on in any particular case. Should Board members have any questions regarding work of the office, they are asked to please call Ms. Miller directly and she will respond.

Maureen Hollowell, Vice-Chair, wanted to clarify that many board members work closely with staff on other activities and discussion with staff happens in those meetings. The issue was discussed and the Board came to an understanding that Board members would direct Board business questions to the Executive Director.

Another duty of the Board is maintaining records of its proceedings and making such records available for inspection by the public. The need to make sure our minutes are posted in a timely manner for the public to view was stressed by the Chair. The Board discussed the need to have Board packets available in alternative formats. Ms. Miller responded that when we give notice of a meeting, we ask for people to let us know if they need other accommodations, such as alternative formats. Ms. Barrett asked Board

members to make VOPA aware of any other requirements or needs they may have. Ms. Miller noted that VOPA materials will be made available in alternate formats upon request.

Mr. Cooper asked that we have copies of all Board documents, but especially the agenda, available in other formats even if not requested. Elizabeth Priaulx made a MOTION for VOPA to provide all Board materials on disk at future meetings. Mr. Cooper seconded the MOTION. After discussion, Mr. Cooper withdrew his second. There was no second and the MOTION died.

### **POWERS AND DUTIES OF THE EXECUTIVE DIRECTOR**

The Chair then reviewed the powers and duties of the Director. Ms. Barrett questioned Section 51.5-39.6 subsection 5: To annually prepare a report of activities of the Board and Office and submit copies of the report to the Governor and legislature. Ms. Miller responded that there is a plan in place to produce the report; duties are assigned and it will be ready well before the beginning of the General Assembly.

### **BOARD CALENDAR**

Mr. Cooper pointed out that some things must be filled in on the Board Calendar based on the powers and duties of the Board. Mr. Cooper stated that, in December, the Governor presents his budget to the Senate Finance Committee usually around the 20<sup>th</sup> of December, and by that time, if you aren't in the Governor's Budget, it is more difficult to get into the final Budget. Ms. Miller reported that she met with the Associate Director for the Department of Planning and Budget about the Budget deadlines. This year the budget deadline was September 15, 2003. DPB stated that next year's deadline is not yet known and they will know next year's deadline with a week's notice. She was also advised that if needed, VOPA could go straight to the money committees if the Governor's budget is insufficient. Ms. Miller also mentioned there is not a whole lot of debate that goes on about our budget because there are few state general funds in our budget.

The Calendar discussion was briefly interrupted to welcome and introduce, Kathy Hill, Director of Inspections, in the Inspector General's Office. She said she came to learn more about the Board. Ms. Barrett mentioned that Ms. Hill has also attended DA and PAIMI Council meetings. Ms. Hill's office is in Staunton and she conducts inspections at MH/MR facilities throughout the state. She is pleased that she has been able to connect with advocacy groups.

The Calendar discussion resumed as Ms. Miller provided dates for 2004 PAIMI and DA Council meetings.

Ms. Miller gave information on priority setting in past years for consideration in the calendar. Generally, in January, VOPA develops a survey that is sent to our mailing list. The survey is sent out and posted on the web for six weeks in February and March. Input is sought from our Advisory Councils. In March and April, VOPA conducts focus groups. We try to have all data gathered by the beginning of June.

Ms. Barrett stressed the importance of Board members being part of the process and asked if they would like to attend any of the focus groups held in their areas. The Chair said she would establish a committee to work with the staff to review and plan for the next priority setting process. Ms. Priaulx offered to serve and the Chair will contact Mr. Burmester to see if he would consider serving as well. Ms. Priaulx will serve as the committee chair and present ideas to the Board at the January meeting.

The 2004 Board meeting dates are January 15<sup>th</sup>, April 26-27, July 19<sup>th</sup>, September 10<sup>th</sup>, and November 16, 2004. The January meeting will be in Richmond. The April meeting will be a Board retreat, outside of

Richmond. Locations for the July and September meetings will be determined at a later time. The November meeting would be in Richmond and will only be held if needed to address legislative issues.

Waja Grimm asked if the retreat is open to the public. Ms. Miller will review the Freedom of Information Act to find the answer to that question. There was some discussion about the purpose and goals of the retreat.

## **OLD BUSINESS**

### **Councils' Purpose**

The Chair repeated the issues and questions that were raised by the Chair of the Disability Advisory Council, Mr. Toby Brown, about the purpose of the Disability Advisory Council. She asked the PAIMI Chair, Mark Lester, if the PAIMI Council had any issues about its purpose. Mr. Lester explained the PAIMI Council's role and responsibilities were stated in the Federal Regulations that covered the PAIMI Program. He said his Council is extremely pleased with the goals and focus areas developed by VOPA for the PAIMI Program and mentioned the PAIMI Council annual report proved it. Ms. Miller explained that an annual PAIMI Council report has to be submitted to the federal funding agency every year. Ms. Barrett suggested that a copy be included in the next Board package. At the August Board meeting, Mr. Brown asked for clarification of the role and purpose of the DA Council since the scope of the disabilities represented by that committee was expanded. Mr. Brown wanted a clarification for that Council of what it is the Board wants from them. Board members suggested that the DA Council review the duties set out in the handout the Board received, and that the DA Council prepare a report to the Board similar to the one done by the PAIMI Council. It was also suggested council members be reminded of their role as VOPA representatives.

### **Policies**

Ms. Miller began the policy discussion overview for Ms. Hollowell. The Board is responsible for adoption of regulations, policies, and procedures necessary to carry out the provisions of the statute. She noted that if we adopt regulations, they have to be consistent with the provisions of Article 2 of the Administrative Process Act. If the Board or the agency is going to adopt a policy that concerns a grant or denial of a right or benefit by any agency, that becomes a regulation and that has to be published through the Administrative Process Act, which is a very lengthy and complicated process. Among other things, regulations must be put in a specific style, specific language, and published for the public comment for 30 days. We then must obtain an Economic Impact Statement from the Department of Planning and Budget, and then publish the final rule for another 60 days before it becomes effective. The entire process will take many months.

A discussion of the client appeal policy followed. The Board asked if all callers were provided with the policy. Ms. Miller and Sherry Confer, Policy Director, explained the current process, where the policy is provided only if a request is denied by a managing attorney, and even then we do so inconsistently. Ms. Prialx noted that it would be prohibitive to send it to all callers, since we do not collect contact information from all callers.

Ms. Miller asked if the Board wants the policy to be so broad that it allows the Board to receive complaints about the quality of services, knowing that they might get some minor complaints. The Board felt they could receive even minor complaints and would recognize what was important without critiquing the staff or their performance.

Ms. Hollowell made a MOTION to adopt the policy of client appeals. Mr. Cooper seconded. Ms. Miller offered amendments of several corrections of typographical errors. Ms. Hollowell agreed that the amendments were friendly. MOTION passed unanimously.

Maureen Hollowell explained policy and guidelines for travel reimbursement of the Board. Mr. Cooper inquired about the Board members receiving permission from the Executive Director regarding travel reimbursement. Ms. Hollowell indicated that this matter will be discussed later in the meeting.

A discussion was held regarding the personal conflict of interest policy. Ms. Hollowell noted that this was different from a financial conflict. Ms. Hollowell indicated that she will clarify the issue of financial statements for our January meeting. Ms. Prialx inquired about the penalties for the Board if there is a conflict. Ms. Hollowell stated she believed the penalties could be significant and they are outlined in the code.

Mr. Cooper indicated that one must disclose potential or real conflicts of interest. One can vote on an issue and participate in the debate, provided that the Board member has disclosed up front that a potential or real conflict of interest might occur. Mr. Cooper also mentioned that the Board member is legally obligated to reveal a potential conflict of interest, and then it is up to the Board to discuss and determine if the member could still vote on the matter.

Followed by a discussion of the Board regarding the disclosure statement, Ms. Hollowell suggested that VOPA provide the full NAPAS information on non-financial conflicts and that Ms. Hollowell would draft a policy for further discussion.

Ms. Hollowell returned to the guidelines for Travel Reimbursement that was briefly discussed earlier in the meeting. Mr. Cooper indicated that his concern was the approval of travel reimbursement from the Executive Director. After discussion, Ms. Grimm recommended that travel reimbursement be approved by both the Board Chair and the Executive Director. Ms. Grimm made the MOTION that we adopt the travel changes. The MOTION was seconded by Okpil Kim. The MOTION passed unanimously.

Ms. Grimm presented two discussion points regarding VOPA's policies on services. The details of the issues could not be openly discussed as they pertained to an individual client's case. Mr. Cooper made a MOTION to bring Ms. Grimm's concerns into discussion and suggested that the issues be discussed during the Executive Session. Ms. Prialx seconded motion. MOTION carried unanimously.

## **Budget**

Annette Sannuti, Business Manager and Yvette Simard, Accountant took part in the meeting by phone. Ms. Kim provided a presentation on the budget that was sent to the General Assembly. She explained the federal dollars for grants and their programs. The federal fiscal year is October 1 - September 30, and generally Congress passes the budget on October 1st. Ms. Miller and Ms. Sannuti indicated that this year, the current continuing resolution passed by Congress expires on Monday, November 21, 2003. Ms. Kim explained the difference in the state and federal budgets and went over the budget reports in the Board package.

Mr. Cooper inquired about the status of VOPA spending federal dollars. Ms. Miller explained the grants and their limitations regarding the expiration of spending carry over funds. Mr. Cooper expressed concern regarding the budget, revenue sheet, and carry over time frames. Ms. Miller stated that future budget reports would contain better detail about the deadlines for spending carry-over funds.

Ms. Grimm inquired about the renting of office space. Ms. Miller said that we are still in the process of finalizing an office site. She will follow up with the Board at the next meeting.

### **EXECUTIVE SESSION - Executive Director Evaluation**

Ms. Grimm made the MOTION for the Board to go into Closed Session to discuss the Executive Director's Evaluation, pursuant to section 2.2-3711(A)(1) of the Code of Virginia. Dink Shackelford, seconded. The MOTION carried.

Following the Executive Session a MOTION was made by Ms. Hollowell, seconded by Mr. Shackelford to return to the Board meeting and the MOTION carried unanimously. A Board member roll call vote was taken certifying that only business stated in the motion was discussed.

Ms. Barrett indicated that the only action that they need to report is that the Board approved giving the Executive Director a 2.25% pay increase, effective November 25, 2003. The Chair and Vice-Chair would meet with Ms. Miller privately to discuss her evaluation. Mr. Cooper indicated that he is glad Ms. Miller is here and he appreciates her work.

### **Recognition Luncheon**

Ms. Barrett reported that a recognition luncheon will be held during the January Board meeting in Richmond. It is to recognize Heidi Lawyer and Jonathan Martinis for their work in the past. Past Board members will also be invited and recognized. A picture of the Board will be taken at that meeting.

### **NEW BUSINESS**

#### **Critical Incident Reporting in Community Committee**

Ms. Hollowell, Chair of the Committee, provided a report of the committee meeting. It was decided that there is a need to do research and determine what we want to move forward with. The Board needs to determine why we want to do this, and what it is we want to accomplish by doing so. The committee research could then be used to help establish priorities. The Committee will determine the focus of the research goals. Ms Hollowell reminded the Board that this activity was initiated when this Board first started meeting because of the concerns that there appeared to be gaps in how information was gathered concerning incidents, injuries, and deaths in facilities other than training centers and publicly funded programs.

Ms. Hollowell will contact committee members for input and then consult with Ms. Miller. Elizabeth Priaulx, Maureen Hollowell, Ray Burmester, Susan Kalanges, Colleen Miller, Kim Ware, and Sherry Confer are committee members. Ms. Barrett indicated that if any other Board members would like to participate please let Ms. Hollowell know. Ms. Miller asked that, for this and any future projects, a Board member be teamed with a staff person to work on research. The Board agreed to this.

### **Objectives**

Jonathan Martinis, Staff Attorney joined us by phone. Ms. Miller asked for a review and approval of the objectives for the Traumatic Brain Injury Program. Ms. Barrett reported that the PAIMI Council suggested a change to one of the original objectives, to allow for investigations of medication practices in private facilities as well as state facilities.

Ms. Grimm inquired about the focus area regarding the full investigations of five Critical Incident Reports. What if there were 10 that needed to be investigated? Ms. Miller replied that the cases we will investigate have been identified, which means that there are many cases that we will not investigate. She said that this is the only way to be effective and complete the investigations in a timely way.

Ms. Priaulx indicated that our Goals and Focus Areas look great; she commended staff on a job well done. She inquired if there is a system in place to respond to emergency cases outside of our Goals and Focus Areas. Ms. Miller indicated that we are not a crisis agency, but there is a policy in place to respond to cases outside priorities with the approval of the Executive Director.

Mr. Cooper raised the issue of root causes of abuse and neglect and what we intend to do strategically about it. Ms. Miller indicated that with each investigation that we are doing there is a systemic recommendation section. Discussion followed. Mr. Martinis provided an overview of work done regarding the Inappropriate Restraint Use in Juvenile Detention Facilities and Schools. Ms. Priaulx inquired about the Assistive Technology PSA focus area. Ms. Miller indicated that we are describing who VOPA is and our work in Assistive Technology, but since we are using AT money, we need to focus on that.

In response to the Board's question about which VOPA publications will be published in Spanish, Sherry Confer, Policy Director talked about doing the main VOPA brochure in Spanish. In addition, we have had a request from Central State Hospital for PAIMI materials in Spanish.

Mr. Martinis provided an overview on outreach to CILS to provide training to help make sure people are aware of what we are doing and receive their input on what they think we should be doing.

Ms. Miller provided an overview on the Traumatic Brain Injury grant.

Ms. Hollowell MOVED to approve the goals and objectives as amended to include the TBI objectives and the change suggested by the PAIMI Advisory Council. Motion seconded by Mr. Cooper and the MOTION carried unanimously. Ms. Priaulx said that the objectives were great. Ms. Barrett congratulated staff on the good work. Ms. Kim indicated that we need to balance responsibilities of Board and Executive Director and be careful not to intrude into day-to-day management.

### **Policy Proposal/Discussion**

Ms. Miller provided an explanation of Ms. Grimm's discussion points without going into an individual case context. She stated that there are some cases that are inconsistent with VOPA's federal mandate, such as forcing an individual with mental illness into an involuntary commitment. Although that might be what that person needs at that time, to do so would put us in violation of our federal statute and in conflict with our clients. Ms. Priaulx followed by saying that the restriction is in our statutory language. Ms. Miller provided information regarding federal law on this matter. She explained the Developmental Disabilities Act and Protection and Advocacy systems focus on representing the person with the disability to reach full inclusion into the community.

The second proposed policy dealt with VOPA information being given to the public. After some discussion and clarification, the Board called for the question. Ms. Grimm made a MOTION to adopt the two policies she presented. There was no second and the MOTION died.

## **Staff Announcements**

Ms. Miller reported that Claunita Jackson-Jones is working with the Resource Advocacy Unit. We hired a new investigator who started Monday November 17, 2003. We will re-advertise for the second investigator position in Richmond rather than in Staunton. We have also advertised a time limited position in Fredericksburg to do some PABSS, CAP, and Traumatic Brain Injury work. We are currently reviewing our candidate pool; the position announcement closed on November 17th.

Ms. Miller informed the Board about Alma Jeffrey's death. She had worked for VOPA for a very long time. She will be missed by staff and many clients.

Ms. Priaulx asked if staff needed any support from the Board regarding this loss. Mr. Cooper also offered support to the staff and indicated that the Board is very proud of the work they do.

## **EXECUTIVE SESSION - Personnel**

Ms. Hollowell made the MOTION for the Board to go into Closed Session to discuss the business pertaining to Personnel, pursuant to section 2.2-3711(A)(1) of the Code of Virginia. Ms. Priaulx seconded. The MOTION carried.

Following the Executive Session a MOTION was made by Ms. Grimm, seconded by Mr. Shackelford to return to the Board meeting and the MOTION carried unanimously. A Board member roll call vote was taken certifying that only business stated in the MOTION was discussed.

## **LEGISLATIVE ISSUES**

### **Adult Protection Services**

Ms. Miller provided an overview of the Department of Social Services proposal to change the Adult Protective Services statute. She and Heidi Lawyer have reviewed these changes and will keep the Board informed.

### **Schools for the Deaf and Blind**

Ms. Hollowell provided an overview on the school in Hampton and the school in Staunton. They are in the process of considering consolidation of the two schools and building a new school. Ms. Barrett asked that staff keep the Board up to date regarding these issues. Mr. Cooper suggests that we do not take a position on this at this time.

### **Appropriations for Medicaid**

Ms. Miller provided an overview on the needed appropriations for the Medicaid program.

### **Other Legislative Issues**

Ms. Barrett mentioned that there would be proposed legislation regarding legally authorized representatives. Ms. Miller mentioned that the PAIMI Council also informed us that they expect there will be some legislation around advanced directives.



Ms. Miller updated Board on how VOPA intends to track legislation and have an update provided on our Web page regarding disability related issues going through the General Assembly. She encouraged the Board to let us know of any issues we should be following.

Ms. Hollowell stated she had just learned that a Chamber of Commerce in the Tidewater area is pursuing legislation to enable the court to award attorney fees to defendants in cases brought by VOPA.

### **OTHER BUSINESS**

Mr. Cooper presented an issue regarding an editorial written in the Richmond Times Dispatch. He is concerned that when the Attorney General speaks on behalf of the Commonwealth, it can really affect people with disabilities. Mr. Cooper recommended we write a letter to the editor on this. Ms. Hollowell made a MOTION that the Board submit a letter to the editor to the Richmond Times Dispatch in response to the October 20, 2003 editorial. MOTION was seconded by Mr. Cooper. Six in favor and one opposed. Mr. Cooper will write the letter for the Chair to sign.

### **ADJOURNMENT**

Mr. Shackleford made a MOTION to adjourn the meeting. Ms. Prialx seconded the MOTION. The meeting was adjourned at 5:30 p.m.

Accepted:

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Barbara S. Barrett, Chair

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Date